Local Rules of Practice

United States District Court

District of South Dakota

May, 2001

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May, 2001

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA

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May, 2001

DIVISIONS OF DISTRICT OF SOUTH DAKOTA

The State of South Dakota constitutes one judicial district divided into four divisions. (28 U.S.C. § 122):

(1) The NORTHERN DIVISION comprises the counties of Brown, Campbell, Clark, Codington, Corson, Day, Deuel, Edmunds, Grant, Hamlin, McPherson, Marshall, Roberts, Spink, and Walworth.

The place of holding court is Aberdeen.

(2) The SOUTHERN DIVISION comprises the counties of Aurora, Beadle, Bon Homme, Brookings, Brule, Charles Mix, Clay, Davison, Douglas, Hanson, Hutchinson, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union, and Yankton.

The place of holding Court is Sioux Falls.

(3) The CENTRAL DIVISION comprises the counties of Buffalo, Dewey, Faulk, Gregory, Haakon, Hand, Hughes, Hyde, Jerauld, Jones, Lyman, Mellette, Potter, Stanley, Sully, Todd, Tripp, and Ziebach.

The place of holding Court is Pierre.

(4) The WESTERN DIVISION comprises the counties of Bennett, Butte, Custer, Fall River, Harding, Jackson, Lawrence, Meade, Pennington, Perkins, and Shannon.

The place of holding Court is Rapid City.

PREFACE

INDIVIDUAL CALENDARS:

The Court operates on an individual calendar system. Each Judge in active service assumes responsibility for the cases, both civil and criminal, filed in the Division of the Judge's residence. The Chief Judge shall assign responsibility for cases in any Division in which there is not an active Judge residing. The schedule as to the presiding Judge for the regular session of court in each division is fixed from time to time by court order. All preliminary motions, etc., will be heard insofar as practicable by the Judge who will be presiding at the session of court at which the case will be tried. Inquiries as to motions or other matters having to do with a particular case may be addressed to the Clerk at Sioux Falls, Rapid City, or Pierre, as appropriate, for the attention of the Judge who will be presiding at the court at which the case will be tried.

LOCAL RULE NUMBERING:

These Local Rules have been numbered consistently with the Federal Rules of Civil Procedure and the conventions of the United States Judicial Conference's Local Rule Project. Generally, the number of each of the Local Rules is dictated by the number of the corresponding rule in the Federal Rules of Civil Procedure.

LR 1.1 SCOPE OF THE RULES

(A) Title and Citation.

These Rules shall be known as the Local Rules of Practice for the United States District Court for the District of South Dakota. They may be cited as "D.S.D. LR _____."

(B) Effective Date.

These Rules become effective on January 1, 2001.

(C) Scope of Rules.

These Rules shall apply in all proceedings in civil actions.

(D) Relationship to Prior Rules; Actions Pending on Effective Date.

These Rules supersede all previous rules promulgated by this Court or any judge of this Court. They shall govern all applicable proceedings brought in this Court after they take effect. They also shall apply to all proceedings pending at the time they take effect, except to the extent that, in the opinion of the Court, the application thereof would not be feasible or would work injustice, in which event the former rules shall govern.

LR 4.1 COPIES OF PLEADINGS

(A) Number of Copies for Filing.

A sufficient number of copies of all papers and pleadings prepared by litigants or counsel, including the original summons or any other papers to be signed and certified by the Clerk, which are required for service, shall be furnished at the time of filing. The original and the copies shall conform to the original as completely as is practicable before submission to the Clerk.

(B) Filing with the Clerk's Office.

The original and one true copy of all papers and pleadings shall be filed with the Clerk.

LR 5.1 FILING

Subject to D.S.D. LR 26.1, all papers after the complaint required to be served upon a party shall be filed with the Clerk within a reasonable time thereafter, not to exceed five (5) days.

LR 5.2 PROOF OF SERVICE

An attorney's certificate of service, the written admission of service by the party or the party's attorney, or an affidavit shall be sufficient proof of service of pleadings or papers under Fed. R. Civ. P. 5.

LR 7.1 MOTIONS (ORAL ARGUMENT)

Oral argument shall be had only upon order of the Court. Requests for oral argument shall be made by separate statement at the conclusion of the motion or response, or by any party by a separate pleading filed within ten (10) days after the filing of the motion or response.

LR 7.2 MOTIONS (BRIEFS)

(A) Required Written Brief.

There shall be served on opposing

counsel and filed with the Clerk with every motion raising a question of law, except oral motions made during a hearing or trial, a brief containing the specific points or propositions of law with the authorities in support thereof on which the moving party will rely, including the Rule on the basis of which the motion is made. On or before twenty (20) days after service of a motion and brief, unless otherwise specifically ordered by the Court, all opposing parties shall serve and submit to the Court briefs containing the specific points or propositions of law with authorities in support thereof in opposition to that motion. The movant may submit to the Court a reply brief within ten (10) days after service of the brief in opposition.

(B) Page Limitation on Briefs.

Briefs and any attachments other than documentary evidence attached in accordance with D.S.D. LR 56.1(A) shall not exceed twenty-five pages, unless prior approval has been obtained from the Court.

LR 10.1 IDENTIFICATION

A paper or pleading presented shall plainly show the caption of the case, a description or designation of the contents, and in whose behalf the same is offered for filing. All papers presented after the initial pleading must bear the file number assigned to the case. All pleadings must be signed. Names and addresses and telephone numbers shall be typed or printed under all signatures.

LR 15.1 MOTIONS TO AMEND PLEADINGS

In addition to other requirements of these Local Rules, any party moving to amend pleadings shall file a copy of the proposed amended pleadings with the motion.

LR 16.1 SCHEDULING CONFERENCES

Pursuant to Fed. R. Civ. P 16(b), this Court has determined that its pretrial conference procedures are inappropriate for certain types of cases and hereby exempts the following:

(1) All appeals under the Administrative Procedures Act.
(2) Bankruptcy Appeals and Withdrawals.
(3) Condemnation Actions.
(4) Foreclosures.
(5) Deportation Actions.
(6) Equal Access to Justice/Fee Award Appeals.
(7) Forfeiture and Statutory Penalty Actions.
(8) Freedom of Information Actions.
(9) Government Collection Actions.
(10) Judgments/Actions to Enforce or Register.
(11) Prisoner actions to vacate sentence, for habeas corpus, or mandamus and for prisoner actions brought under 42 U.S.C. § 1983.
(12) Selective Service Actions.
(13) Social Security Reviews.
(14) Summons/subpoenas - Proceedings to enforce/contest government and private party depositions.
(15) Third-party IRS Tax Actions.

LR 26.1 FILING OF DISCOVERY MATERIALS

(A) Pursuant to Fed.R.Civ.P 5(d), no depositions (except notices to take depositions), interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall be filed with the Clerk of Courts.

(B) Any discovery materials necessary for the disposition of any motion filed with the Court shall be attached as an exhibit and filed with the party's brief in support of such motion.

(C) If any party designates any or all of any deposition as evidence to be offered in the trial of any case, such deposition shall be filed with the Clerk of Courts at the same time as that party's designation.

(D) Depositions used by a party only for the purpose of contradicting or impeaching the testimony of deponent as a witness, pursuant to Fed.R.Civ.P. 32(a)(1), shall not be filed unless otherwise ordered by the judge presiding at the hearing or trial.

LR 26.1.5 CORPORATE DISCLOSURE STATEMENT

(A) Who Must File.

Any non-governmental corporate party to a proceeding in a district court must file a statement identifying all its parent corporations and listing any publicly held company that owns 10% or more of the party's stock.

(B) Time for Filing.

A party must file the statement with the first filing in the district court. The filing must be updated if there is any change regarding filing required under (A) above.

(C) Number of Copies.

The party must file an original and one copy unless the court requires a different number by order in a particular case.

LR 26.2 PRESERVATION AND DISPOSAL OF DEPOSITIONS

(A) All depositions which have been read or offered into evidence by agreement of parties, or at the trial or submission of the case to the Court, shall become a permanent part of the file.

(B) After the ultimate conclusion of the case, depositions not offered or received into evidence may be withdrawn by the parties taking the deposition. All unclaimed depositions may be disposed of by the Clerk after giving thirty days' notice to the attorneys of record of the Clerk's intention to do so.

LR 26.3 MEETING OF PARTIES

Unless otherwise ordered by the Court in a particular case, the provisions of Fed.R.Civ.P 26(f), requiring a meeting of and report from the parties, apply to all civil actions in this Court except:

(1) Cases filed in, removed to, or transferred to this Court before December 1, 1993.

(2) Cases exempted under Local Rule 16.1.

LR 29.1 DISCOVERY STIPULATIONS MADE IN OPEN COURT OR WRITING

No stipulation, agreement, or consent

between parties or their attorneys in respect to any proceeding in this Court shall be binding unless made in open court and entered in the minutes or reduced to writing and subscribed by the parties or their attorneys. Such stipulation or agreement relating to changing the place of trial, continuing cases to a later date, extending time to answer or otherwise plead, or setting any matter down for hearing, shall not be binding unless an order of the Court be made thereon and filed.

LR 37.1 CONDITIONS FOR DISCOVERY MOTIONS

No objection to interrogatories, or to requests for admissions or to answers to either or relating to other discovery matters shall be heard unless it affirmatively appears that counsel have met and attempted to resolve their differences through an informal conference. Counsel for the moving party shall call for such conference before filing any motion relating to discovery matters. At least three days prior to the hearing, or sooner as the Court may require, the counsel for the parties or the parties shall file a statement setting forth the matters upon which they have been unable to agree together with briefs in support of or in opposition to their respective contentions.

LR 39.1 TRIALS

(A) Opening Statements in Jury Trials.

After a jury has been selected and sworn, the party upon whom rests the burden of proof may briefly, and without argument, make an opening statement to the jury. Thereafter, the adverse party may briefly, and without argument, make an opening statement to the jury.

(B) Number of Counsel.

On the trial of any action only one counsel on a side shall be permitted to examine or cross-examine each witness, and not more than two attorneys on a side shall sum up the case to the jury unless the Court shall otherwise order. Upon interlocutory questions only one attorney on a side shall be permitted to argue except by special permission of the Court before argument opens. The moving party shall be heard first followed by the respondent's argument. The movant may reply confining any remarks to the points first stated and a pertinent answer to respondent's argument. Thereafter discussion on the question shall be closed unless the Court requests further argument.

LR 40.1 CONTINUANCES

(A) Consent of Parties Required.

In no event shall a case be continued without the approval of the Court. Unless the Court shall deem it unnecessary, any party seeking a continuance shall do so by motion, which shall include the affidavit of the party seeking the continuance or of some person who knows the facts upon which the application is founded. The affidavit shall contain the grounds for the continuance. If the continuance is sought because of the absence of a material witness, the affidavit must show that the party applying for the continuance has a valid cause of action or defense and has used due diligence to prepare for trial, the nature and kind of diligence used, the names and residences of absent witnesses, and the substance of the testimony expected to be given by such witnesses.

(B) When Witness Absent.

Unless, in the opinion of the Court, justice shall require it, the trial will not be

continued or postponed on account of the absence of a witness if the adverse party will admit that the witness, if present, would testify as stated in the affidavit; but in such case, the applicant may read the testimony of such witness as stated in his affidavit, subject to all proper objections which might be interposed if the witness were present. Every continuance or postponement granted upon application shall be upon such terms as the Court may impose.

LR 43.1 TRIAL EXHIBITS

(A) Custody of Clerk.

All exhibits offered and received in evidence shall be delivered to the Clerk for filing and shall remain in the custody of the Clerk as part of the record in the case. Exhibits that are offered but refused may be delivered to the Clerk for filing at the option of the party making the offer, unless the Court shall require that such be filed. Before judgment in a case becomes final, exhibits filed in the case may not be taken from the custody of the Clerk without an order of the Court and certified copies of such original exhibits being filed in lieu of the originals. The party withdrawing the original exhibits shall pay to the Clerk any costs incurred.

(B) Withdrawal or Disposal After Judgment Becomes Final.

(1) Civil Cases.

After a judgment in a civil case has become final, or the time for appeal has elapsed, exhibits shall be claimed by the party to whom they belong. Any exhibits not claimed and withdrawn within sixty days after the ultimate conclusion of a judgment may be destroyed or otherwise disposed of by the Clerk after giving thirty days' notice to the attorneys of record of the Clerk's intention to do so.

(2) Record of Withdrawal or Disposal.

In a civil case, a receipt specifying the exhibits shall be obtained from the party withdrawing them, and the receipt shall be filed in the case. Exhibits destroyed or otherwise disposed of by the Clerk shall be accounted for by a statement prepared and filed in the case by the Clerk, stating the date such action was taken and the date notice of intention to do so was given to the attorneys of record.

LR 47.1 EXAMINATION OF JURORS

The voir dire examination of trial jurors may be conducted by the Court or by counsel, or both, as the Court may direct.

LR 47.2 QUESTIONING OF JURORS AFTER TRIAL

None of the parties or their lawyers or anybody acting on their behalf shall contact jurors after a trial until the jurors have completed their term of service as jurors. The Court may order exceptions to this rule in various instances, including but not limited to the instance of a hung jury.

LR 48.1 NUMBER OF JURORS

In all civil jury cases, the jury shall consist of not less than six members, to be determined by the Court.

LR 51.1 INSTRUCTIONS

(A) Required Pretrial Filing of Instructions.

Each party shall file, as ordered by the Court, with the Clerk all proposed jury instructions which reasonably can be anticipated in advance of trial. In all civil cases, each party shall submit a "statement of the case" instruction.

(B) Form of Instructions.

All proposed instructions shall identify the party submitting the instruction and specifically cite the authority or authorities upon which it is based.

(C) Service of Instructions.

Copies of such proposed instructions shall be served on all parties.

LR54.1 TAXATION OF COSTS

(A) Procedure.

Before costs may be taxed, the prevailing party entitled to recover costs shall file a verified bill of costs upon forms which may be obtained from the Clerk. Proof of service of a copy upon the party liable for costs shall be endorsed thereon. Opposing counsel may within five days thereafter file with the Clerk exceptions to the costs or any specific item therein.

The Clerk shall then tax costs and, upon allowance, the costs shall be included in the judgment or decree. The action of the Clerk may be reviewed by the Court, on motion of either party, served within five days thereafter.

(B) Default.

In a default case, the Clerk shall tax costs as matter of course without notice.

(C) Attorney's Fees.

In any case in which attorney's fees are recoverable under the law applicable to that case, a motion for attorney's fees shall be filed with the Clerk with proof of service within fourteen days after the entry of judgment or after an order of dismissal under circumstances permitting the allowance of attorney's fees except as provided under the Equal Access to Justice Act when the motion shall be filed within thirty days. Objections to an allowance of fees must be filed within ten days after service on the party against whom the award of attorney's fees is sought. The Court will then determine the appropriate attorney's fees, if any, without further hearing, unless in the Court's opinion a hearing is needed to resolve serious factual disputes between the parties.

On its own motion, the Court may grant an allowance of reasonable attorney's fees to a prevailing party in appropriate cases.

The petitioner shall attach to his motion an affidavit setting out the time spent in the litigation and any factual matters pertinent to the petition for attorney's fees. The respondent may by counter affidavit controvert any of the factual matters contained in the petition and may assert any factual matters bearing on the award of attorney's fees.

A failure to present a petition for an award of attorney's fees may be considered by the Court to be a waiver of any claim for attorney's fees.

LR 56.1 MOTION FOR SUMMARY JUDGMENT

(A) Use of Documentary Evidence.

If documentary evidence is to be offered in support of or against a motion, and the same is susceptible of convenient copying,

copies thereof shall be served and filed with the Clerk by the moving party with the motion, and by the adverse party with its brief in opposition to the motion. If such documentary evidence is not susceptible of convenient copying, the party shall in lieu thereof furnish a concise summary or statement of the contents thereof, and shall make the original available to the adverse party for examination.

(B) Moving Party's Required Statement of Material Facts.

Upon any motion for summary judgment, pursuant to Rule 56 of the Federal Rules of Civil Procedure, in addition to statements of law above required there shall be annexed to the motion a separate, short, and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried. Each material fact in this Local Rule's required statement shall be presented in a separate, numbered statement and with an appropriate citation to the record in the case.

(C) Opposing Party's Required Statement of Material Facts.

The papers opposing a motion for summary judgment shall include a separate, short, and concise statement of the material facts as to which it is contended that there exists a genuine issue to be tried. The opposition shall respond to each numbered paragraph in the moving party's statement with a separately numbered response and appropriate citations to the record.

(D) Effect of Omission: Sanction.

All material facts set forth in the statement required to be served by the moving party will be deemed to be admitted unless controverted by the statement required to be served by the opposing party.

LR 58.1 MANDATE

Upon receipt of a mandate from an appellate court, the Clerk shall forthwith file and enter the same of record. The Clerk shall serve a notice of the entry by mailing a copy of the mandate to the respective parties affected thereby and shall make a note in the docket of the mailing. In the event that the mandate provides for costs or directs a disposition other than an affirmance, the prevailing party shall submit an order to this Court in conformity with said mandate.

LR 65.1 MOTIONS FOR PRELIMINARY AND PERMANENT INJUNCTION

In all cases wherein the moving party seeks both a preliminary and permanent injunction, the matters shall be deemed consolidated for trial unless otherwise specifically ordered by the Court.

LR 68.1 SETTLEMENT

The deadline for settling civil cases shall be the close of business hours ten days prior to the date set for trial, unless otherwise ordered by the Court. In any case settled after the deadline, the Court may consider imposing sanctions including, but not limited to, the costs of assembling and empaneling the jurors, on the parties or counsel for violation of this Local Rule.

LR 77.1 OFFICE OF THE CLERK

(A) Official Station.

The official station of the Clerk of the Court shall be at Sioux Falls.

(B) Deputy Station.

Deputy Clerks of Court, in such numbers as may be required, shall be stationed at Sioux Falls, Pierre, and Rapid City.

LR 83.1 MEDIA COVERAGE

No camera or other picture-taking device, radio or television broadcasting equipment or voice-recording instrument, whether or not court actually is in session, shall be brought into any federal court building or place of holding proceedings before a United States District Judge or Magistrate Judge in this district for use during the trial or hearing of any case, or proceeding incident to any case, or in connection with any session of the United States grand jury. This rule, however, shall not apply to official court reporters in attendance at any trial, hearing, or proceedings and where, in connection with the duties of such court reporters, a voice-recording instrument is used.

LR 83.2 ATTORNEYS

(A) Bar of the Court.

The Bar of this Court shall consist of those attorneys admitted to practice before this Court.

(B) Eligibility.

Any person of good moral character who is an active member of the South Dakota State Bar shall be eligible for admission to the Bar of this Court as hereinafter provided.

(C) Procedure for Admission.

An attorney who is eligible to practice law as provided by Section (B) may apply for admission to the Bar of this Court. The application sequence shall be as follows:

(1) Applicants must complete a written application in the Division of their residence or in the Division where the trial of a case in which they are chief counsel will be heard. Forms are available from the Clerk of Court.

(2) Applicants must consent to an inquiry concerning their fitness and qualifications for admission. Submission of the completed admission application shall be considered such consent and a waiver of any privacy.

(3) The Clerk's Office shall make any inquiry that may be deemed necessary to obtain information concerning an applicant's character and fitness to practice law.

(4) At least two active Judges in this District must approve each applicant before an applicant may be admitted.

(5) The Clerk's office shall report to the active Judge in the Division in which the application for admission is filed the approval or disapproval of the other active Judges.

(6) When the approval or disapproval of the application is recorded, the applicant will be notified of the results.

(7) Applicants approved will have a day and time scheduled for the admission ceremony.

(8) The applicant for admission shall appear in person for the admission ceremony with a member of this bar who will vouch for the legal qualifications, integrity, and good moral character of the applicant. Upon oral motion of a member of the

bar, taking the prescribed oath, signing the roll of attorneys in the Clerk's Office, and paying the required fee, the applicant will be admitted. The Clerk shall then issue a Certificate of Admission.

(D) Oath of Admission.

The following oath or affirmation shall be administered to an applicant for admission to the Bar of this Court:

> You do solemnly (swear or affirm) that you will support and defend the Constitution of the United States and that you will faithfully demean yourself as an attorney and officer of this Court, uprightly and according to law, with all good fidelity as well as the Court as to your clients. SO HELP YOU GOD.

(E) Appearance of Attorney, Pro Hac Vice.

An attorney who is not a member of the bar of the United States District Court for the District of South Dakota may, upon motion, participate in the conduct of a particular case in this Court, but such motion may be allowed only if he or she associates with a member in good standing of the bar of this Court. Such member shall sign all pleadings filed and shall continue in the case unless another member attorney admitted to practice in this Court shall be substituted. The member attorney shall be present in Court during all proceedings in connection with the case, unless otherwise ordered, and shall have full authority to act for and on behalf of the client in all matters, including pretrial conferences as well as trial or any other hearings. It shall be sufficient to make service of any motion, pleading, order, notice, or any other paper upon the member attorney who shall assume responsibility for advising his or her associate of any such service.

(F) Government Attorneys.

Attorneys admitted to practice in a District Court of the United States but who are not qualified under this rule to practice in the District Court of South Dakota may, nevertheless, if they are representing the United States of America, or any officer or agency thereof, practice before this Court in any action or proceeding in this Court in which the United States or any officer or agency thereof is a party.

(G) Disbarment and Discipline.

> (1) Any member of the bar of this Court who has been suspended or disbarred from the bar of the State of South Dakota or who has been convicted of any criminal offense in any United States District Court shall, upon appropriate notice from the Clerk of Court, be suspended from practice before this Court. The member will thereupon be afforded the opportunity upon notice to show good cause within twenty days why there should be no disbarment. Upon the member's response to the order to show cause, the member shall be entitled to a hearing or, upon the expiration of twenty days if no response is made, the Court will enter an appropriate order.
>
> (2) Any member of the bar of this Court may be disbarred, suspended from practice for a definite time, or reprimanded for good cause shown, after opportunity has been afforded such member to be heard.

(3) All applications for the disbarment or discipline of members of the bar of this Court shall be made to or before the Chief Judge of this Court unless otherwise ordered by him. At least two judges of this Court shall sit at the hearing of such applications unless the attorney against whom the disbarment or disciplinary proceedings are brought states in writing or in open Court the member's willingness to proceed before one judge.

(4) It shall be the duty of the United States Attorney, under direction of this Court, to investigate charges against any member of this bar. If, as a result of the investigations, the United States Attorney shall be of the opinion that there has been a breach of professional ethics by a member of this bar, the United States Attorney, as an officer of the Court having special responsibilities for the administration of justice, shall file and prosecute a petition requesting that the alleged offender be subjected to appropriate discipline, including disbarment, suspension, or reprimand. Such duties may, with approval of a majority of the judges, be delegated to any member of the bar of this Court approved by them.

(H) Reinstatement of Disbarred and Suspended Attorneys.

(1) An attorney who has been suspended or disbarred in this Court may petition for reinstatement at any time. Upon the filing of such petition with the Clerk of Court, the Chief Judge shall make an order setting a date for the hearing on said petition on notice of not less than twenty days. The petitioner shall cause a copy of said petition and order for hearing to be served forthwith on the United States Attorney who shall be in attendance on the date of said hearing. The United States Attorney shall investigate the facts alleged in the petition for reinstatement, and shall present to the Court, in affidavit form or otherwise, any facts in support of, or against the granting of said petition. Two judges of this Court shall sit at the hearing on said petition, and the order denying or granting reinstatement shall be made in writing by said judges.

(2) An attorney who has been suspended or disbarred by the Supreme Court of the State of South Dakota and thereafter reinstated by that Court to practice in the state courts shall not be permitted to practice in this court, notwithstanding such reinstatement, until a petition for reinstatement as prescribed in paragraph (1) above, incorporating in addition a certified copy of the order of reinstatement by the Supreme Court of the State of South Dakota, has been filed in this Court and reinstatement ordered after a hearing as above provided.

(I) Law Students.

(1) Student Practice

Any law student acting under a supervising attorney shall be allowed to make an appearance and participate in proceedings in this Court pursuant to these rules.

(2) Eligibility

To be eligible to appear and

participate, a law student must:

(a) Be a student in good standing in a law school approved by the American Bar Association.

(b) Have completed legal studies amounting to four semesters or the equivalent if the law school is on some basis other than a semester basis.

(c) File with the Clerk of Court:

(i) A certificate by the dean of the law school that he or she is of good moral character and possesses the above requirements and is qualified to serve as a legal intern. The certificate shall be a form prescribed by the Court.

(ii) A certificate in a form prescribed by the Court that he or she has read and agrees to abide by the rules of the Court, and all applicable codes of professional responsibility and other relevant federal practice rules.

(iii) A notice of appearance in each case in which he or she is participating or appearing as a law student intern. Such notice shall be in the form prescribed by the Court and shall be signed by the supervising attorney and client.

(d) Be introduced to the Court in which he or she is appearing by an attorney admitted to practice by this Court.

(3) Certificate of Admission.

Upon the completion and filing of the certificates required by subdivisions (I)(2)(c)(i) and (ii) of this rule, the Clerk shall issue a certificate of admission to the law student in a form to be prescribed by the Court. This certificate shall expire contemporaneously with the expiration date of the dean's certificate unless it is sooner withdrawn. Any law student's certificate of admission may be terminated at any time by a judge of this Court without notice or hearing and without any showing of cause.

(4) Restrictions.

No new law student admitted under these rules shall:

(a) Request or receive any compensation or remuneration of any kind from the client. This shall not prevent the supervising attorney, law school, public defender, or the government from paying compensation to the law student, nor shall it prevent any agency from making such charges for its services as it may otherwise properly require.

(b) Appear in Court without the presence of the supervising attorney.

(c) File any documents or papers with the Court that he or she has prepared which have not been read, approved, and signed by the supervising attorney and co-signed by the law student.

(5) Supervising Attorneys.

Any person acting as a supervising

attorney under this rule must be admitted to practice in this Court and shall:
(a) Assume personal professional responsibility for the conduct of the law student being supervised.
(b) Co-sign all pleadings, papers, and documents prepared by the law student.
(c) Advise the Court of the law student's participation, be present with the student at all times in Court, and be prepared to supplement oral or written work of the student as requested by the Court or as necessary to ensure proper representation of the client.
(d) Be available for consultation with the client.

LR 83.3 ASSIGNMENT OF OFFICIAL REPORTERS

Persons appointed to permanent positions as official reporters will be assigned to provide court reporting services for regular active judges.

Where an official reporter, occupying a permanent position, is assigned to a regular active judge and, as a result of the judge taking senior status, being elevated to another court, resigning, retiring, or dying, the judgeship becomes vacant, the reporter will continue to retain his full status and salary during the period in which the judgeship is vacant. During such period, the official reporter shall be available for assignment to provide any court reporting services needed by this Court.

LR 83.4 FORM OF PAPERS

At the request of the Archivist of the United States and upon recommendation of its Court Administration Committee, the Judicial Conference of the United States has adopted the 8½ x 11 inch paper size standard for use throughout the federal judiciary and has directed the elimination of the use of legal size paper measuring 8½ x 14 inches.

All papers or pleadings shall be presented on white paper without backs and shall be legibly typewritten or printed without erasures or interlineation materially defacing them and, if consisting of more than one sheet, be fastened at the top. Matter shall appear on one side only and shall be double-spaced, except quoted material. Papers not in the required form shall not be filed without leave of the court. Exhibits attached to pleadings shall be similarly typewritten, printed, or otherwise reproduced in clear, legible, and permanent form.

LR 83.5 REMOVAL OF FILES OR WITHDRAWAL OF PAPERS

(A) Temporary Removal.

No file, or pleading, or paper belonging to the files of the Court shall be taken from the office or custody of the Clerk except upon order of the Court made after a showing of good cause and specifying the time within which the same shall be returned to the Clerk. A receipt for files so taken shall be delivered to the Clerk by the party removing the same.

(B) Permanent Withdrawal.

Upon such terms as the Court may order, a party may permanently withdraw a paper or record from the files.

LR 83.6 CLERK'S FEES

(A) Filing Fees.

(1) Actions.

Except in seaman's suits, any party commencing any civil action, suit, or proceedings, whether by original process, removal, or otherwise, shall pay to the Clerk the statutory filing fee before the case will be filed and process issued thereon. (28 U.S.C. § 1914).

(2) Appeals.

Upon the filing of any separate or joint notice of appeal or application for an appeal or upon the receipt of any order allowing, or notice of the allowance of an appeal or of a writ of certiorari, the statutory fee shall be paid to the Clerk of the District Court by the appellant or petitioner (28 U.S.C. § 1917).

(3) Habeas Corpus.

Upon the filing of any petition or application for a writ of habeas corpus, the petitioner or applicant shall pay to the Clerk the statutory filing fee. (28 U.S.C. § 1914).

(B) Miscellaneous Fees.

The Clerk shall collect from parties such additional fees only as are prescribed by the Judicial Conference of the United States and prepayment of such fees may be required by the Clerk before furnishing the service therefore.

(C) Refusal to File by the Clerk.

The Clerk is authorized to refuse to docket or file any suit or proceeding, writ, or other process, or any paper or papers in any suit or proceeding until the required filing fees are paid, except as otherwise ordered by the Court in proceedings in forma pauperis. (28 U.S.C. § 1914(c)).

(D) Citation for Non-Payment.

If any fees or costs are due and payable to the Clerk or United States Marshal, and remain unpaid after demand therefor, the Court may issue its citation to the party, or to counsel for the party, to show cause why such fees or costs should not then and there be paid.

LR 83.7 MARSHAL'S FEES

(A) Prepayment of Fees.

Except as otherwise provided by statute, or by order of court, the United States Marshal may require a deposit to cover all fees and expenses prescribed by law for performing the services requested by any party. (28 U.S.C. § 1921).

(B) Form 285.

Every party requesting the United States Marshal to serve any process, including an original summons, must furnish with every process delivered to the Marshal an executed United States Marshal Form 285. Said forms are available in the Marshal's Office or in the Clerk's Office.